

11 OCT 2006



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In re Application of	:	
KACEV et al.	:	
Application No.: 10/528,819	:	DECISION
PCT No.: PCT/AU2003/000484	:	
Int. Filing Date: 23 April 2003	:	
Priority Date: 25 September 2002	:	
Attorney Docket No.: 58157-014500	:	
For: TURBOCHARGED COMPRESSION	:	
IGNITION ENGINE	:	

This decision is in response to applicants' "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181" filed in the United States Patent and Trademark Office (USPTO) on 14 August 2006. No petition fee is required.

**BACKGROUND**

On 23 April 2003, applicants filed international application PCT/AU2003/000484, which designated the United States and claimed a priority date of 25 September 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 April 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 25 March 2005.

On 21 March 2005, applicants filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 16 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required. The Notification set a two-month extendable period for reply.

On 24 July 2006, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DE/EO/909) indicating that the application was abandoned as to the United States of America for failure to reply to the NOTIFICATION OF MISSING REQUIREMENTS mailed 16 November 2005.

On 14 August 2006, applicants filed the instant "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181". The petition was accompanied by, *inter alia*, a copy of a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS", a copy of a declaration of inventors, and a copy of an "Auto-Reply Facsimile Transmission" from the USPTO dated 13 January 2006.

### **DISCUSSION**

Applicants have provided sufficient evidence to establish that on 13 January 2006 applicants filed a declaration of the inventors. The proof is in the form of the copy of the "Auto-Reply Facsimile Transmission" which bears a date of 13 January 2006 and which itemizes an "Response to Notification of Missing Requirements" and identifies the above-captioned application number and docket number. Further, practitioner states that the copy of the declaration filed 14 August 2006 is a copy of the declaration originally filed 13 January 2006. Therefore, in view of the "Auto-Reply Facsimile Transmission" and practitioner's statement, the declaration received on 14 August 2006 may properly be accepted as originally received in the USPTO on 13 January 2006. The NOTIFICATION OF ABANDONMENT mailed 24 July 2006 is hereby vacated.

The surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage has been charged to Deposit Account 50-2638.

A four-month extension of time fee has also been charged to Deposit Account 50-2638.

### **CONCLUSION**

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 24 July 2006 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

  
Daniel Stemmer

Legal Examiner

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